

S/N 09/410,999  
Filed October 1, 1999  
Docket no. 13098

The Examiner has rejected claims 2 and 6 - 15 under 35 USC §112 as being indefinite.

Claims 2 and 11 have been amended in response to this rejection.

The Examiner has rejected claims 1, 3, 4 and 5 under 35 USC §102(b) as being anticipated by, or in the alternative, under 35 USC §103 as obvious over, Thompson (US Patent 5,368,926).

Thompson is directed to a unique class of fibers called "capillary channel fibers". These fibers have highly unusual shapes (Figures 6 - 11) and wick liquid a long distance on their surface, making them ideal for distribution layer materials. The assignee has filed numerous patent applications on different capillary channel fiber types and methods of making them (col. 8, lines 59 – col. 9, line 5 and col. 11, lines 48 – 63). These fibers, however, are not used in the instant invention.

Applicants' invention is a surge material that has a creased layer with at least one layer of less dense fibers adjacent to it. This structure is clearly visible in Applicants' Figure 1 and may best be considered as a "filled" creased layer. The creased layer gives the structure compression resistance and the less dense layer(s) gives the structure control of fluid movement in the valleys. The primary purpose of Applicants' surge material is to accept fluid and provide temporary storage so that leakage from the product is avoided. Applicants note that while Thompson illustrates a pleated layer (Figures 4, 5) in his invention and discusses this layer (col. 5, lines 1 – 18), there is no teaching of why one might want to pleat a layer. More importantly, Thompson does not teach or suggest filling the creased or pleated layer with less dense fibers. Thompson's Figures clearly show the pleated layer without any additional fiber on either side.

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Applicants' surge layer is structurally and functionally different from Thompson.

Applicants respectfully request that this rejection be reconsidered and withdrawn in light of the amendments to the claims and the above remarks.

**Claim Rejections – 35 USC §103**

The Examiner has rejected claims 2, 6, 7, 10 and 12 - 15 under 35 USC §103(a) as unpatentable over Thompson (US Patent 5,368,926).

The Examiner has rejected claims 9 under 35 USC §103(a) as unpatentable over Thompson (US Patent 5,368,926).

The Examiner has rejected claims 8 and 11 under 35 USC §103(a) as unpatentable over Thompson (US Patent 5,368,926) in view of Datta (US Patent 5,695,376).

The Examiner has rejected claim 16 under 35 USC §103(a) as unpatentable over Thompson (US Patent 5,368,926) in view of Datta (US Patent 5,695,376) as applied to claims 8 and 11, and further in view of Powers (US Patent 5,597,647).

As noted above, Thompson does not teach or suggest the second or third layers as required by Applicants' claimed invention. Thompson's absorbent core and top sheet are functionally and/or structurally very dissimilar to Applicants' surge layer having the filled creased layer with second and third layers adjacent to it.

Datta provides a lofty crimped fiber layer and Powers provides a conjugate fiber absorbent layer. Neither of these references teach or suggest a filled creased surge layer nor do they suggest how or why to combine their teachings with Thompson to produce such a layer. Combining either or both of these references with Thompson will not result in the invention of the Applicants and such a combination, without a suggestion to combine or some

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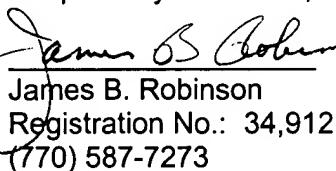
guidance on how such a combination may be effected, is not sufficient to make Applicants invention obvious. Furthermore, since the structure of Thompson is different from that of the Applicants' structure, the combination of Datta's or Powers' desired properties with Thompson's structure cannot produce Applicants' invention.

Applicants' further note that these claims (except for 16) depend either directly or indirectly from claims 1 and recite the present invention in varying scope. Applicants have herein discussed Thompson in relation to claims 1, 3, 4 and 5. These claims are similarly distinguishable not only because of the patentability of the independent claim but also because of the combination of the subject matter of each of the dependent claims with the independent claim which makes each claim further distinguishable, and which is not taught or suggested by the cited references, singly or in combination.

Applicant respectfully requests that the rejections of the claims be reconsidered and withdrawn in light of the preceding amendments and remarks.

Should the Examiner have any issues he would like to discuss in order to facilitate the progression of this application, he is encouraged to call the undersigned at (770)-587-7273.

Respectfully submitted,

  
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S/N 09/410,999  
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Claim 1 (amended): A surge layer for personal care products comprising a compression resistant first creased layer adjacent a lower density [and at least a] second layer having a density between 0.01 and 0.15 g/cc, said second layer and said creased layer [, said layers being in face-to-face relation to one another and] being bonded together.

Claim 2 (amended): The surge layer of claim 1 wherein said first layer has a basis weight between 5 and 70 gsm and said second layer [may have densities between 0.01 and 0.05 g/cc and] has a basis weight between 25 and 250 gsm.

Claim 3 (amended): The surge layer of claim 1 further comprising a third layer adjacent said first layer on a side away from said second layer, said lower density third layer having a density between 0.01 and 0.15 g/cc, said third layer and said creased layer [in face-to-face relation to said first layer and] being bonded together.

Claim 11 (amended): The surge layer of claim 2 wherein said second layer comprises [further comprising] conjugated fibers.

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